

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

DENNIS RENARD GRIMES,

Defendant-Appellee.

UNPUBLISHED

June 14, 2007

No. 270576

Wayne Circuit Court

LC No. 06-001796-01

Before: Fitzgerald, P.J., and Sawyer and O’Connell, JJ.

PER CURIAM.

Defendant was charged with possession with intent to deliver marijuana, MCL 333.7401(2)(d)(iii), felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b. The trial court dismissed the charges after granting defendant’s motion to suppress the evidence. The prosecutor appeals as of right. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The evidence that led to the charges against defendant was obtained from defendant’s home when the police executed a search warrant. Defendant moved to suppress the evidence because the officer who conducted the investigation that led to the issuance of the search warrant acted in violation of MCL 764.2a. The trial court agreed and dismissed the charges.

This Court reviews a trial court’s factual findings at a suppression hearing for clear error, but reviews the ultimate ruling on a motion to suppress de novo. *People v Marcus Davis*, 250 Mich App 357, 362; 649 NW2d 94 (2002).

The statute at issue provides that a peace officer in one city or township “may exercise the authority and powers of a peace officer outside the geographical boundaries of the officer’s” city or township only if he is acting in conjunction with state police or an officer of the city or township in which he is acting. MCL 764.2a(1)(a) and (b).

It is undisputed that the Redford officer who conducted the controlled buy in Detroit, which led to the issuance of the search warrant, was exercising the authority and powers of a peace officer in Detroit. Because the Redford officer was not acting in conjunction with the state police or the Detroit police, the investigation resulted in a violation of the statute. However, the law is clear that such a violation does not entitle the defendant to any relief. It does not preclude

the officer from swearing to and filing a complaint against the defendant or from testifying against him in subsequent judicial proceedings. *People v Meyer*, 424 Mich 143, 160; 379 NW2d 59 (1985). It therefore follows that it would not prevent the officer from swearing to an affidavit in support of a search warrant. Further, because the purpose of the statute “is not to protect the rights of criminal defendants, but rather to protect the rights and autonomy of local governments,” *People v Clark*, 181 Mich App 577, 581; 450 NW2d 75 (1989), a violation of the statute does not entitle defendant to dismissal of the charges, *Meyer, supra* at 160, 162, and does not justify application of the exclusionary rule. *People v Hamilton*, 465 Mich 526, 535; 638 NW2d 92 (2002); *Clark, supra* at 581-582.

The officer’s conduct did not result in a violation of defendant’s Fourth Amendment rights. “The Fourth Amendment of the United States Constitution and its counterpart in the Michigan Constitution guarantee the right of persons to be secure against unreasonable searches and seizures.” *People v Kazmierczak*, 461 Mich 411, 417; 605 NW2d 667 (2000). “In order to satisfy the Fourth Amendment of the United States Constitution and article 1, § 11 of the Michigan Constitution, a search must be ‘reasonable.’ As a general matter, this requires that law enforcement authorities obtain a warrant.” *People v Goforth*, 222 Mich App 306, 309; 564 NW2d 526 (1997). Issuance of a search warrant must be based on probable cause. MCL 780.651(1). Here, the police obtained a search warrant. There is no argument that the supporting affidavit failed to establish probable cause to believe that contraband or evidence of a crime would be found in the place to be searched, see *Kazmierczak, supra* at 418, and thus the search was constitutionally reasonable. The only error was the violation of MCL 764.2a and “statutory violations do not render police actions unconstitutional.” *Hamilton, supra* at 534.

Reversed and remanded for reinstatement of the charges. We do not retain jurisdiction.

/s/ E. Thomas Fitzgerald

/s/ David H. Sawyer

/s/ Peter D. O’Connell